

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. A-5902

PETITION OF CHARLOTTE COFFIELD
(Hearing held July 23, 2003)

OPINION OF THE BOARD
(Effective date of Opinion, October 3, 2003)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioner proposes to construct a one-story addition that requires a six (6) foot variance as it is within two (2) feet of the side lot line. The required setback is eight (8) feet.

Jeremy Chancey, a contractor, represented the petitioner at the public hearing.

The subject property is Lot 40, Block 4, located at 2304 Michigan Avenue, Silver Spring, Maryland, 20910, in the R-60 Zone (Tax Account No. 01648127).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct an 8 x 14 foot one-story addition in the eastern section of the property.
2. Mr. Chancey testified that the property is unique because it is a corner lot located at the intersection of Michigan Avenue and Michigan Court. Mr. Chancey testified that the petitioner's lot is 6,300 square feet and that the property is surrounded by much larger lots. Mr. Chaney testified that the proposed construction would be built on an existing concrete pad.
3. Mr. Chancey testified that the location of the addition will be in a side yard, and that the Department of Permitting Services (DPS) has designated it a rear yard. Mr. Chancey testified that new construction could not be located elsewhere on the property.

FINDINGS OF THE BOARD

Based upon the binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioner's lot has no exceptional topographical or other conditions peculiar to the property. The Board finds that the petitioner's lot exceeds the minimum lot size for the zone and that the lot is similar in shape and size to other lots in the neighborhood. See, Exhibit No. 7, (zoning vicinity map).

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of six (6) feet from the required eight (8) foot side lot line setback for the construction of a one-story addition is denied.

The Board adopted the following Resolution:

Board Chairman Donald H. Spence, Jr., was necessarily absent and did not participate in this Resolution. On a motion by Allison Ishihara Fultz, seconded by Angelo M. Caputo, with Louise L. Mayer and Donna L. Barron, Vice Chairman, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

Donna L. Barron
Vice Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 3rd day of October, 2003.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County

Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.